

## Environmental Protection Agency

## § 35.2218

### § 35.2212 Project initiation.

(a) The grantee shall expeditiously initiate and complete the project, in accordance with the project schedule contained in the grant application and agreement. Failure to promptly initiate and complete a project may result in the imposition of sanctions under part 30 of this chapter.

(b) The grantee shall initiate procurement action for building the project promptly after award of a Step 3 grant or, after receiving written approval of the information required under § 35.2202 under a Step 2+3 grant or, for a Step 7 project, after completing the facilities plan and the preparation of a pre-bid package that is sufficiently detailed to insure that the bids received form the design/build work will be complete, accurate, comparable and will result in a cost-effective operable facility. Public notice of proposed procurement action should be made promptly after Step 3 award or after final approvals for a Step 2+3 grant under § 35.2202, or after completing the pre-bid package for the Step 7 award. The grantee shall award the subagreement(s) and issue notice(s) to proceed, where required, for building all significant elements of the project within twelve months of the Step 3 award or final Step 2+3 approvals.

(c) Failure to promptly award all subagreement(s) for building the project will result in a limitation on allowable costs. (See appendixes A, A.2.e.).

(d) The grantee shall notify the Regional Administrator immediately upon award of the subagreement(s) for building all significant elements of the project (see 40 CFR 33.211).

(Approved by the Office of Management and Budget under control number 2040-0027)

[49 FR 6234, Feb. 17, 1984, as amended at 55 FR 27097, June 29, 1990]

### § 35.2214 Grantee responsibilities.

(a) The grantee shall complete the project in accordance with the grant agreement including: The facilities plan that establishes the need for the project; the design drawings and specifications; the plan of operation under § 35.2106 that identifies the basis to determine annual operating costs; the fi-

nancial management system under § 35.2140(d) that adequately accounts for revenues and expenditures; the user charge system under § 35.2140 that will generate sufficient revenue to operate and maintain the treatment works; the project schedule; and all other applicable regulations. The grantee shall maintain and operate the project to meet project performance standards including the enforceable requirements of the Act for the design life.

(b) The grantee shall provide the architectural and engineering services and other services necessary to fulfill the obligation in paragraph (a) of this section.

### § 35.2216 Notice of building completion and final inspection.

The grantee shall notify the Regional Administrator when the building of the project is complete. Final inspection shall be made by the Regional Administrator after receipt of the notice of building completion.

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### § 35.2218 Project performance.

(a) The grantee shall notify the Regional Administrator in writing of the actual date of initiation of operation.

(b) Subject to the provisions of 40 CFR part 33, the grantee shall select the engineer or engineering firm principally responsible for either supervising construction or providing architectural and engineering services during construction as the prime engineer to provide the following services during the first year following the initiation of operation:

(1) Direct the operation of the project and revise the operation and maintenance manual as necessary to accommodate actual operating experience;

(2) Train or provide for training of operating personnel and prepare curricula and training material for operating personnel; and

(3) Advise the grantee whether the project is meeting the project performance standards.

(c) On the date one year after the initiation of operation of the project, the grantee shall certify to the Regional Administrator whether the project

## § 35.2250

meets the project performance standards. If the Regional Administrator or the grantee concludes that the project does not meet the project performance standards, the grantee shall submit the following:

(1) A corrective action report which includes an analysis of the cause of the project's failure to meet the performance standards (including the quantity of infiltration/inflow proposed to be eliminated), and an estimate of the nature, scope and cost of the corrective action necessary to bring the project into compliance;

(2) The schedule for undertaking in a timely manner the corrective action necessary to bring the project into compliance; and

(3) The scheduled date for certifying to the Regional Administrator that the project is meeting the project performance standards.

(d) Except as provided in §35.2032(c) the grantee shall take corrective action necessary to bring a project into compliance with the project performance standards at its own expense. This limitation on Federal funding for corrective actions does not apply to training funds under section 104(g)(1) of the Act.

(e) Nothing in this section:

(1) Prohibits a grantee from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party performing project work; or

(2) Affects EPA's right to take remedial action, including enforcement, against a grantee that fails to carry out its obligations under §35.2214.

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## § 35.2250 Determination of allowable costs.

The Regional Administrator will determine the allowable costs of the project based on applicable provisions of laws and regulations, the scope of the approved project, §30.705 of this subchapter, and appendix A of this subpart.

## 40 CFR Ch. I (7-1-12 Edition)

### § 35.2260 Advance purchase of eligible land.

In the case of grant assistance awarded solely for the acquisition of eligible land, the following provisions are deferred until the award of the ensuing Step 3 assistance for the building of facilities: §§35.2105, 35.2130, 35.2140, 35.2206 and 35.2208.

### § 35.2262 Funding of field testing.

In the case of grant assistance for field testing of innovative or alternative wastewater process and techniques, the following provisions are deferred until the award of assistance for building the approved facilities: §§35.2105, 35.2106, 35.2122, 35.2130, 35.2140, 35.2206, and 35.2208.

### § 35.2300 Grant payments.

Except as provided in §35.2206, the Regional Administrator shall pay the Federal share of the allowance under §35.2025 and the allowable project costs incurred to date and currently due and payable by the grantee, as certified in the grantee's most recent payment request.

(a) *Adjustment.* The Regional Administrator may at any time review and audit requests for payment and payments and make appropriate adjustments as provided in part 30 of this chapter.

(b) *Refunds, rebates and credits.* The Federal share of any refunds, rebates, credits, or other amounts (including any interest) that accrue to or are received by the grantee for the project, and that are properly allocable to costs for which the grantee has been paid under a grant, must be credited to the current State allotment or paid to the United States. Examples include rebates for prompt payment and sales tax refunds. Reasonable expenses incurred by the grantee securing such refunds, rebates, credits, or other amounts shall be allowable under the grant when approved by the Regional Administrator.

(c) *Release.* By its acceptance of final payment, the grantee releases and discharges the United States, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the grant, subject only to exceptions previously specified in writing between